

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jerome Leach,
Appellant,

v.

Dallas County Board of Review,
Appellee.

ORDER

Docket No. 13-25-0432
Parcel No. 11-02-262002

On December 6, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Jerome Leach was self-represented and submitted evidence to support his claim. County Attorney Wayne M. Reisetter is counsel for the Dallas County Board of Review and Assessor Steve Helm represented it at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Jerome Leach, owner of property located at 1007 Vine Street, Dallas Center, Iowa, appeals from the Board of Review decision reassessing his property. According to the property record card, the subject property is a one-story, frame dwelling having 640 square feet of living area and a 266 square-foot attached garage built in 1954. The property is also improved by a 52 square-foot open porch and two enclosed porches totaling 86 square feet. The dwelling has a sub-standard quality grade (6+10) and is in below-normal condition. The improvements are situated on a 0.26-acre site.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$47,140, representing \$23,220 in land value and \$23,920 in dwelling value.

Leach protested to the Board of Review on the grounds that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1) and that there has been a change in value since the last reassessment under section 441.37(1)(b) and its reference to section 441.35(2).

The Board of Review denied the protest.

Leach then appealed to this Board reporting his property value has been reduced due to water backup on his site caused by the elevation of an adjacent alley. He did not indicate his opinion of value on his petition. In a reassessment year, a challenge based on change in value is akin to a market value claim under section 441.37(1)(a)(2). *See Dedham Co-op. Ass'n v. Carroll Cnty. Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006).

The plain language of Iowa Code section 441.37(1)(a)(1) indicates that an aggrieved taxpayer must list more than one comparable property on the protest form. *Montgomery Ward Dev. Corp. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992), *overruled on other grounds by Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614 (Iowa 1996). This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Id.* Leach listed one comparable on his Board of Review protest form (1006 Vine Street) and did not refer to any other comparable properties in his testimony or evidence to this Board. Accordingly, we will only consider Leach’s over-assessment claim.

As recited by his attorney in correspondence to the City of Dallas Center, Leach has had an on-going dispute with the City concerning water damage to his property. (Exhibit 8). He reports the issue began in 2001 when neighbors built an addition to their garage and obtained a variance to the 20-foot setback requirement. The variance allowed the construction of the addition 10 feet from a common alley. In the process, the alley elevation was raised causing water runoff onto Leach’s property. Leach

contends this modification impeded the normal flow of water runoff and redirected it onto his adjacent land in violation of Dallas Center Ordinance Section 135.12(6). (Exhibit 6). He sought enforcement of the ordinance and wanted the City to require the neighbors to restore the alley to its prior elevation. Leach provided photographs showing standing water on his property, which he claims was caused by the alley elevation change. (Exhibits 1 & 5).

Leach has apparently filed 26 written complaints with Dallas Center, its officials, and employees between 2009 and 2012 concerning this drainage issue. The City Council found no violation of the city ordinance. (Exhibit 7). Leach testified that he also filed a complaint with the State Ombudsman, but was only advised to seek legal counsel. Apparently, Leach has followed this advice given the more recent letter written by his attorney to the City. (Exhibit 8). While we are sympathetic to Leach's predicament, we lack jurisdiction to intervene in his dispute with Dallas Center or provide the relief he seeks.

Concerning his assessment appeal, Leach provided no evidence to support his claim that his property assessment is over-assessed. Initially he made no assertion of what he believes is the property's fair market value, but asks this Board to find the flooding devalued his property and reduce the assessment. He later testified he thought the property's value was \$0 because multiple realtors refused to assist him in selling the property. Ultimately, while the drainage problem may have had an impact on Leach's property value, he failed to provide any evidence that actually shows his property is over-assessed or an indication of its fair market value, such as adjusted comparable sales, an appraisal, or a comprehensive market analysis. This evidence is critical to prevail on an over-assessment claim.

Conclusion of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

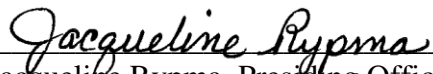
Property is to be valued at one hundred percent of its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

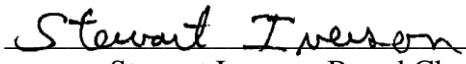
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Leach failed to present any evidence to establish that his property was assessed for more than its fair market value. He also did not provide evidence of the subject property's fair market value to support his claim of over-assessment.

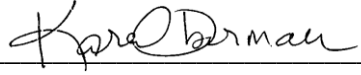
Viewing the record as a whole, we determine the preponderance of the evidence does not support Leach's claims of over-assessment as of January 1, 2013.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of Jerome Leach's property located in Dallas Center, Iowa, as determined by the Dallas County Board of Review, is affirmed.

Dated this 13th day of January, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:
Jerome Leach
PO Box 34
Dallas Center, IA 50063
APPELLANT

Wayne Reisetter
Dallas County Attorney
207 N. 9th Street
Adel, IA 50003-1444
ATTORNEY FOR APPELLEE

Steve Helm
801 Court Street, Room 103
Adel, IA 50003
ASSESSOR